

## **REMARKS/ARGUMENTS**

The Office Action of September 21, 2005 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1-2, 5, and 12-17 stand rejected under 35 USC 112, second paragraph as being indefinite. Claims 1, 2, and 5 have been amended to clarify the claims. Withdrawal of this rejection is requested.

Claims 1-2, 5, and 12-17 stand rejected under 35 USC 102(b) as being anticipated by Elton (5,286,087). Elton describes a chair having a lumbar support member 36. The entire support moves fore and aft to provide the lumbar support.

Specifically, a support bar 30 extends transversely between the two upright members 20 and 22 of the frame and is *rotationally mounted* to the frame for rotation about the axis 32. The bar 30 includes a mounting portion 34 which is radially displaced from the axis 32. The lumbar support member 36 is mounted to the mounting portion 34 of the bar 30 so that *upon rotation of the bar* about axis 32, the lumbar support member 36 will *move fore and aft* of the frame 18 to provide varying degrees of support to the lumbar region of a seat occupant.

However, lumbar support member 36 is not flexible and does not bend. The adjust mechanism is coupled to the support bar 30, *not* to the lumbar support member 36.

On the other hand, the instant claims require a *flexible* support that bends. The degree to which the support is bent can be changed. Moreover, the adjust mechanism adjusts the flexible support directly by adjusting the degree in which the support member is bent. In contrast, the adjust mechanism of Elton adjusts the position of the support bar.

Elton does not teach each element of the instant claims and cannot anticipate the claims under 35 USC 102. Withdrawal of this rejection is requested.

Application No. 10/812,358  
Office Action mailed September 21, 2005  
Amendment dated December 15, 2005

### CONCLUSION

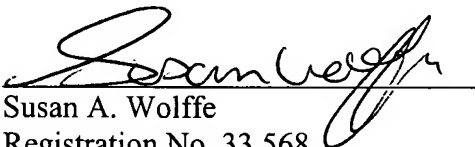
In view of the above amendments and remarks, withdrawal of the instant rejections and issuance of a Notice of Allowance are requested. If any additional fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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